

principal applicant shall be so informed and required to acknowledge receipt of this information in writing. The question of visa eligibility can be determined definitively only at the time the family member applies for a visa.

### Subpart H—Issuance of Immigrant Visas

#### § 42.71 Authority to issue visas; visa fees.

(a) *Authority to issue visas.* Consular officers are authorized to issue immigrant visas at designated consular offices abroad pursuant to INA 101(a)(16), 221(a), and 224. (Consular offices authorized to issue immigrant visas are listed periodically in Visa Office Bulletins published by the Department of State.) A consular officer assigned to duty in the territory of a country against which the sanctions provided in INA 243(g) have been invoked shall not issue an immigrant visa to an alien who is a national, citizen, subject, or resident of that country, unless the officer has been informed that the sanction has been waived by INS in the case of an individual alien or a specified class of aliens.

(b) *Immigrant visa fees.* Fees are prescribed by the Secretary of State for the execution of an application for, and the issuance of, an immigrant visa. The application fee shall be collected prior to the visa interview and execution of the application. The issuance fee shall be collected after completion of the visa interview and prior to issuance of the visa. A fee receipt shall be issued for each fee. A fee collected for the application for or issuance of an immigrant visa is refundable only if the principal officer at a post or the officer in charge of a consular section determines that the visa was issued in error or could not be used as a result of action by the U.S. Government over which the alien had no control and for which the alien was not responsible.

#### § 42.72 Validity of visas.

(a) *Period of validity.* With the exception indicated herein, the period of validity of an immigrant visa shall not exceed six months, beginning with the date of issuance. Any visa issued to a

child lawfully adopted by a U.S. citizen and spouse while such citizen is serving abroad in the U.S. Armed Forces, is employed abroad by the U.S. Government, or is temporarily abroad on business, however, shall be valid until such time, for a period not to exceed 3 years, as the adoptive citizen parent returns to the United States in the course of that parent's military service, U.S. Government employment, or business.

(b) *Extension of period of validity.* If the visa was originally issued for a period of validity less than the maximum authorized by paragraph (a) of this section, the consular officer may extend the validity of the visa up to but not exceeding the maximum period permitted. If an immigrant applies for an extension at a consular office other than the issuing office, the consular officer shall, unless the officer is satisfied beyond doubt that the alien is eligible for the extension, communicate with the issuing office to determine if there is any objection to an extension. In extending the period of validity, the officer shall make an appropriate notation on the visa of the new expiration date, sign the document with title indicated, and impress the seal of the office thereon.

(c) *No fee for extension of period of validity.* No fee shall be charged for extending the period of validity of an immigrant visa.

(d) *Age and marital status in relation to validity of certain immigrant visas.* In accordance with § 42.64(b), the validity of a visa may not extend beyond a date sixty days prior to the expiration of the passport. The period of validity of a visa issued to an immigrant as a child shall not extend beyond the day immediately preceding the date on which the alien becomes 21 years of age. The consular officer shall warn an alien, when appropriate, that the alien will be admissible as such an immigrant only if unmarried and under 21 years of age at the time of application for admission at a U.S. port of entry. The consular officer shall also warn an alien issued a visa as a first or second preference immigrant as an unmarried son or daughter of a citizen or lawful permanent resident of the United States that the alien will be admissible

as such an immigrant only if unmarried at the time of application for admission at a U.S. port of entry.

(e) *Aliens entitled to the benefits of sections 154 (a) and (b) of Pub. L. 101-649.* (1) Notwithstanding the provisions of paragraphs (a) through (d) of this section, the period of validity of an immigrant visa issued to an immigrant described in paragraph (e)(2) of this section may, at the request of the applicant, be extended until January 1, 2002, if the applicant so requests either at the time of issuance of the visa or within six months thereafter. If an applicant entitled to issuance of an immigrant visa having an extended period of validity fails to request extended validity at the time of issuance but subsequently, within six months thereafter, requests that the validity be extended pursuant to this paragraph, the consular officer shall issue a replacement visa to the alien in accordance with the provisions of § 42.74(b).

(2) An immigrant may request the extended period of validity provided for in paragraph (e)(1) of this section if he or she is

(i) Resident in Hong Kong as of the date of enactment of Public Law 101-649;

(ii) Chargeable to the foreign state limitation for Hong Kong; and

(iii) Classifiable, during fiscal year 1991, as a preference immigrant under section 203(a) (1), (2), (4), or (5) of the INA or, during fiscal year 1992 and thereafter, as a preference immigrant under section 203(a) (1), (2), (3), or (4), or 203(b)(1) of the INA.

(3) An alien who elects to have the period of validity of his or her immigrant visa extended as provided in paragraph (e)(1) of this section and whose entitlement to the immigrant classification of such visa was based upon his or her status as a child at the time of issuance shall not cease to be entitled to such visa by reason of attaining age twenty-one or marrying prior to his or her application for admission into the United States.

(4) An alien who has elected to have the period of validity of his or her visa extended pursuant to paragraph (e)(1) of this section shall, if his or her contemplated date of application for admission into the United States is no

later than six months following the date of visa issuance, notify the appropriate consular officer of his or her intention to travel to the United States for this purpose. The consular officer shall thereupon schedule an appointment with such alien for the purpose of determining whether or not the alien remains admissible into the United States as an immigrant. Such appointment shall be scheduled not sooner than six months preceding the alien's contemplated date of application for admission for permanent residence. If the consular officer determines that the alien continues to be admissible to the United States as an immigrant, he or she shall issue to the alien a duplicate immigrant visa as provided in § 42.74 of this part except that the alien shall pay only a new issuance fee. If the consular officer determines that the alien has become inadmissible to the United States as an immigrant, he or she shall revoke the visa as provided in § 42.82 of this part. A consular officer who issues a visa having an extended period of validity pursuant to this paragraph shall, at the time of visa issuance, inscribe on the face of the visa "Section 154 applies" and shall notify in writing the alien concerned of this requirement.

[52 FR 42613, Nov. 5, 1987, as amended at 56 FR 32323, July 16, 1991; 61 FR 1836, Jan. 24, 1996; 62 FR 27694, May 21, 1997]

#### § 42.73 Procedure in issuing visas.

(a) *Insertion of data.* In issuing an immigrant visa, the issuing office shall insert the pertinent information in the designated blank spaces provided on Form OF-155A, Immigrant Visa and Alien Registration, in accordance with the instructions contained in this section.

(1) A symbol as specified in § 42.11 shall be used to indicate the classification of the immigrant.

(2) An immigrant visa issued to an alien subject to numerical limitations shall bear a number allocated by the Department. The foreign state or dependent area limitation to which the alien is chargeable shall be entered in the space provided.

(3) No entry need be made in the space provided for foreign state or other applicable area limitation on